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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,963	01/29/2004	Kazuo Shiota	2091-0309P	2340
	7590 05/12/200 ART KOLASCH & BI	EXAMINER		
PO BOX 747	CH VA 22040 0747		RASHID, DAVID	
FALLS CHURCH, VA 22040-0747			ART UNIT	PAPER NUMBER
		2624		
			NOTIFICATION DATE	DELIVERY MODE
			05/12/2009	ELECTRONIC

## Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

## Advisory Action Before the Filing of an Appeal Brief

	Application No.	Applicant(s)	
10/765,963		SHIOTA ET AL.	
	Examiner	Art Unit	

The MAILWO DATE of this communication appears on the cover sheet with the correspondence address THE REPLY FILED Q May 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.  I. ■ The reply was filled after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other vedence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 1.13 (1) or (3) a Request explication in condition of associated provides and provides and provides appeal feel in compliance with 37 CFR 1.13 (1) or (3) a Request explication in condition of the following time periods:		DAVID P. RASHID	2624					
<ul> <li>1. ■ The reply was filled after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandomment of this application, applicant must timely file one of the following replies: (1) an amendment, affidation, or other evidence, with place site application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 1.131; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:</li> <li>a) ■ The period for reply expires 3 months from the mailing date of the final rejection.</li> <li>b) ■ The period for reply expires on. (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, with the statutory period for reply expires on. (1) the mailing date of the final rejection.</li> <li>Examiner Note: If thox 1 is checked, check either box (a) or (b) ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS for THE FIRM REJECTION. See MPEP 708.07(f).</li> <li>Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee names been filed in the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee names of the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee names of the date for purposes of determining the period of extension and the corresponding number of the fee. The appropriate extension fee names of CPR 1.17(a) is calculated from: (1) the expiration date of the short-end statutory period for reply originally set in the final office action, or (2) as many reduce any series of patient term adjustment. See 37 CFR 1.137(a).</li> <li>NOTICE OF APPEAL 2.</li> <li>□ The Notice of Appeal was filed on</li></ul>	The MAILING DATE of this communication appe	ars on the cover sheet with the	correspondence add	ress				
<ul> <li>1. ■ The reply was filled after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandomment of this application, applicant must timely file one of the following replies: (1) an amendment, affidation, or other evidence, with place site application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 1.131; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:</li> <li>a) ■ The period for reply expires 3 months from the mailing date of the final rejection.</li> <li>b) ■ The period for reply expires on. (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, with the statutory period for reply expires on. (1) the mailing date of the final rejection.</li> <li>Examiner Note: If thox 1 is checked, check either box (a) or (b) ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS for THE FIRM REJECTION. See MPEP 708.07(f).</li> <li>Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee names been filed in the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee names of the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee names of the date for purposes of determining the period of extension and the corresponding number of the fee. The appropriate extension fee names of CPR 1.17(a) is calculated from: (1) the expiration date of the short-end statutory period for reply originally set in the final office action, or (2) as many reduce any series of patient term adjustment. See 37 CFR 1.137(a).</li> <li>NOTICE OF APPEAL 2.</li> <li>□ The Notice of Appeal was filed on</li></ul>								
no event, however, will the statutory period for reply expired for 1 the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See WFEP 706.07(f).  Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from (1) the expiration date of the shorthered statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the maling date of the final rejection, even if simely filed, may reduce any semed patent term adjustment. See 37 CFR 1.704(b).  NOTICE OF APPEAL.  □ The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).  AMENDMENTS  MENDMENTS  ■ MENDME	1. The reply was filed after a final rejection, but prior to or on application, applicant must timely file one of the following rapplication in condition for allowance; (2) a Notice of Appe for Continued Examination (RCE) in compliance with 37 C	the same day as filing a Notice of replies: (1) an amendment, affidav ral (with appeal fee) in compliance	Appeal. To avoid abai it, or other evidence, v with 37 CFR 41.31; o	which places the r (3) a Request				
have been flied is the date for purposes of determining the period of extension and the corresponding amount of the fine. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filled, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).  NOTICE OF APPEAL  2. The Notice of Appeal was filled on A brief in compliance with 37 CFR 41.37 must be filled within two months of the date of filling the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filled, any reply must be filled within the time period set forth in 37 CFR 41.37(a).  AMENDMENTS  3. The proposed amendment(s) filled after a final rejection, but prior to the date of filling a brief, will not be entered because (a) They raise new issues that would require further consideration and/or search (see NOTE below);  (b) They raise the issue of new matter (see NOTE below);  (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  (d) They present additional claims without canceling a corresponding number of finally rejected claims.  NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).  1. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  3. The proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  3. Propurposes of appeal, the proposed amendment(s): a) Will most be entered, or b) will be entered and an explanation of how the new or amended claim(s) would be allowable if submitted in a separate, timely fil	b) The period for reply expires on: (1) the mailing date of this Adno event, however, will the statutory period for reply expire la Examiner Note: If box 1 is checked, check either box (a) or (I MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f	dvisory Action, or (2) the date set forth ter than SIX MONTHS from the mailin b). ONLY CHECK BOX (b) WHEN THE ).	g date of the final rejection FIRST REPLY WAS FI	on. LED WITHIN TWO				
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Claim(s) rejected: 1.2.5.9.11-16 and 18-21. Claim(s) withdrawn from consideration:  AFFIDAVIT OR OTHER EVIDENCE  8.  The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  9.  The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.  REQUEST FOR RECONSIDERATION/OTHER  11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s)	non-allowable claim(s).  7. For purposes of appeal, the proposed amendment(s): a) how the new or amended claims would be rejected is prove the status of the claim(s) is (or will be) as follows:	☑ will not be entered, or b) ☐ wi	•	_				
because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.  REQUEST FOR RECONSIDERATION/OTHER  11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s).  13. Other:  14. David P Rashid/	Claim(s) objected to: Claim(s) rejected: <u>1,2,5,9,11-16 and 18-21</u> . Claim(s) withdrawn from consideration:  AFFIDAVIT OR OTHER EVIDENCE							
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12. Note the attached Information <i>Disclosure Statement</i> (s). (PTO/SB/08) Paper No(s)  13. Other:  /Bhavesh M Mehta/ /David P Rashid/	REQUEST FOR RECONSIDERATION/OTHER		•					
/Bhavesh M Mehta/ /David P Rashid/	12. Note the attached Information <i>Disclosure Statement</i> (s). (PTO/SB/08) Paper No(s).							
	/Bhavesh M Mehta/							

Continuation of 3. NOTE: The amended claims raise new issues that would require further comsideration and search, and requires reconsideration of the prior art of record .